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8
9 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

10 ***

11 W. DONALD GIESEKE, in his capacity as
12 Chapter Seven Trustee for the Estate of
ANTHONY and AMY ROBINSON,

13 Plaintiff,

14 vs.

15 DIAMOND STATE INSURANCE
16 COMPANY, MID-CENTURY INSURANCE
COMPANY, dba "FARMERS" or
17 "FARMERS INSURANCE",

18 Defendants.

CASE NO.: 3:16-cv-00103-MMD-WGC

**AMENDED STIPULATION AND ORDER
TO EXTEND DISCOVERY PENDING THE
OUTCOME OF MEDIATION**

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20 Plaintiff W. DONALD GIESEKE, in his capacity as Chapter Seven Trustee for the
21 Estate of ANTHONY and AMY ROBINSON ("GIESEKE"), Defendant DIAMOND STATE
22 INSURANCE COMPANY ("DIAMOND STATE"), and Defendant MID-CENTURY
23 INSURANCE COMPANY, dba "FARMERS" or "FARMERS INSURANCE" ("FARMER'S")
24 by and through their respective attorneys of record, hereby agree as follows:

25 Plaintiff GIESEKE filed an Adversary Complaint against DIAMOND STATE in the
26 United States Bankruptcy Court, District of Nevada, on September 25, 2014, Case No.
27 BK-N-12-52527-btb. Plaintiff GIESEKE filed a First Amended Adversary Complaint on
28 August 7, 2015, including FARMER'S as a defendant to the action. An Order Certifying

1 this matter to the United States District Court, District of Nevada for jury trial, was entered
2 on February 25, 2015.

3 This litigation arises from underinsured motorist (“UIM”) claims presented to
4 DIAMOND STATE and FARMER’S under their respective insurance policies for alleged
5 injuries sustained by Amy Robinson and Anthony Robinson in an accident which occurred
6 on March 24, 2012. Amy and Anthony Robinson subsequently filed bankruptcy, and W.
7 DONALD GIESEKE was appointed Chapter 7 Trustee for the Estate of Anthony and Amy
8 Robinson (“the Bankruptcy Estate”). GIESEKE is seeking to recover UIM benefits
9 claimed by Amy Robinson against DIAMOND STATE, as an asset in the Bankruptcy
10 Estate.

11 Anthony Robinson dismissed his claims against FARMER’S and recently settled
12 his claims with DIAMOND STATE. Amy Robinson recently settled her claims against
13 FARMER’S. The only remaining claims for trial are the claims by GIESEKE against
14 DIAMOND STATE related to Amy Robinson’s underlying UIM claim to DIAMOND STATE.
15 The parties have conducted discovery and recently requested this court grant an
16 extension of discovery, including an extension of the expert deadlines. On July 13, 2016,
17 this court approved the parties Stipulation and Order to Extend Discovery Deadlines (ECF
18 No. 18). Per the recent Stipulation, expert disclosures are currently due on September
19 12, 2016. **GIESEKE and DIAMOND STATE recently agreed to a mediation which is**
20 **scheduled for September 14, 2016, with Judge Whitehead presiding as the mediator.**
21 Since the mediation date is after the date of initial expert disclosures, the parties request
22 to reset all discovery deadlines pending the outcome of mediation. Should the parties be
23 unable to resolve the claims at mediation, the parties will advise the court accordingly so
24 new discovery deadlines can be issued.

25 An extension of the current discovery deadlines will to allow the parties to privately
26 mediate the matter, will preserve the status quo and minimize the expense of the parties’
27 resources and those of the Court until such mediation can be concluded. *Mediterranean*
28 *Enterprises, Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983). Additionally, it

1 will prevent the risk of the court needlessly expending its energies to further manage the
2 case when the case may well settle as a result of the parties' own accord at the upcoming
3 mediation. *Sommers v. Cuddy*, 2013 U.S. Dist. LEXIS 12430 (D.Nev. 2013).

4 As such, the parties stipulate as follows:

5 1. That the Federal Court action be stayed for sixty (60) days or until the
6 parties have completed private mediation. However, this Stipulation will not stay written
7 discovery or motions filed with the court.

8 2. The stay shall include all current discovery deadlines including initial expert
9 disclosure and rebuttal expert disclosure deadlines, pre-trial deadlines, including
10 dispositive motions, and Joint Pre-Trial Order.

11 4. Within 10 days after completion of mediation, the parties will (1) submit a
12 Stipulation and Order reflecting resolution of some or all of the claims and/or (2) advise
13 the court the parties were unable to resolve the claims and will request the court schedule
14 new discovery deadlines including deadlines for initial expert disclosures and rebuttal
15 expert disclosures, pre-trial deadlines, including dispositive motions, and the Joint Pre-
16 Trial Order.

17 Dated this 1st day of September, 2016.

Dated this 1st day of September, 2016

18 LAW OFFICES OF CURTIS B. COULTER, P.C.

LAW OFFICES OF MATTHEW L. SHARP

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/s/ Matthew L. Sharp

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1 Dated this 1st day of September, 2016
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3 /s/ Pamela L. McGaha
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11 *Diamond State Insurance Company*

12
13 ORDER

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15 IT IS SO ORDERED.

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18 William G. Cobb
19 UNITED STATES MAGISTRATE JUDGE

20 DATED: September 6, 2016.
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